



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

115

CR-2178-2023

Date of decision: 04.03.2025

JATINDER SINGH

..Petitioner

Versus

GANPAT & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jhanji, Sr. Advocate
with Ms. Priyanka Kansal, Advocate
for the petitioner.

Mr. Gurcharan Dass, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The defendant has filed the present revision petition against an interlocutory order passed by the trial Court permitting the plaintiff to implead all the heirs of Smt. Devinder Kaur as defendants in the plaintiff's suit for specific performance of the agreement to sell. Late Smt. Devinder Kaur died on 11.01.1999. Before her death, she is alleged to have entered into an agreement to sell in favour plaintiff Sh. Ganpat. Smt. Devinder Kaur left behind two sons and two daughters. The suit was filed against the petitioner (Sh. Jatinder Singh), one of her son. The defendant claim that the suit is bad for non-joinder of parties. Plaintiff and defendant led their respective evidence. At that stage, an application filed by the plaintiff has been allowed.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.



3. Learned counsel for the petitioner contends that as per Section 21 of the Limitation Act, 1963 (in short '1963 Act'), the prayer for addition of the party was required to be filed immediately the moment defendant objected to maintainability of the suit on non-joinder of the parties. He submits that the plaintiff failed to prove good faith as defined in Section 2(h) of the '1963 Act'. He also relies upon **Pankajbhai Rameshbhai Zalavadia Vs. Jethabhai Kalabhai Zalavadia, (2017) 9 SCC 700** and **B. Santoshamma and another Vs. D. Sarala and another, Civil Appeal No.3574 of 2009, decided on 18.09.2020.**

4. Per contra, learned counsel for respondent No.1 submits that plaintiff was not related to Smt. Devinder Kaur and in any case estate of Smt. Devinder Kaur was already represented by Sh. Jatinder Singh. He submits that the application for impleadment has been filed only to overcome any technical objection.

5. This Court has considered the submissions of learned counsel for the parties.

6. The pivotal issue which require answer is "whether the Court at this stage should finally decide that the application was filed in good faith or not?" There is another aspect of the matter as to "whether the estate of Smt. Devinder Kaur was sufficiently represented by Sh. Jatinder Singh?"

7. In the opinion of this Court, it will be more appropriate to leave the aforesaid question open for decision at the time of final disposal of the suit. This Court would permit the parties to lead evidence and prove their respective case. If at this stage, the application filed by the plaintiff is dismissed, he will not get opportunity to prove that he filed the application in good faith. Moreover, representation of the estate is also required to be



examined. The judgment in **Pankajbhai Rameshbhai Zalavadia's case (supra)**, is distinguishable because defendant No.7 though was impleaded in the suit but he died before filing of the suit. The application to bring his legal representatives was already dismissed. Subsequently, application under Order I Rule 10 of the Code of Civil Procedure, 1908, was filed for substitution. It was in that context the Supreme Court decided the matter. In **B. Santoshamma's case (supra)**, the property was sold before filing of the suit in favour of Sh. Pratap Reddy, however, he was not impleaded as party. In that context, the observations were made.

8. Keeping in view the aforesaid discussion, the revision petition is disposed of in terms of foregoing observations.

March 04th, 2025

Ayub

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*